

EX PARTE OR LATE FILED

LEIBOWITZ & SPENCER DOCKET FILE COPY ORIGINAL

A PARTNERSHIP OF PROFESSIONAL CORPORATIONS

MATTHEW L. LEIBOWITZ, P.A.  
JOHN M. SPENCER, P.C.\*  
JOSEPH A. BELISLE

OF COUNSEL  
SANFORD L. BOHRER

\* NOT ADMITTED TO  
FLORIDA BAR

SUITE 1450  
SUNBANK INTERNATIONAL CENTER  
ONE SOUTHEAST THIRD AVENUE  
MIAMI, FLORIDA 33131-1715

TELEPHONE (305) 530-1322  
TELECOPIER (305) 530-9417

SUITE 500  
1000 CONNECTICUT AVENUE, N.W.  
WASHINGTON, D.C. 20036

August 16, 1993

Via Telecopier

John Hollar, Esquire  
Office of Commissioner Ervin S. Duggan  
Federal Communications Commission  
1919 M Street, NW  
Washington, DC 20554

Re: Ex Parte Presentation  
Video Jukebox Network, Inc.  
MM Docket 92-266

Dear John:

Upon receipt of your fax and the attached advertisement, I put a call in to Peter Flint to inquire as to Video Jukebox Network's plans to provide satellite service as outlined in the advertisement.

Peter informed me that Video Jukebox Network had previously discussed plans to institute satellite service for the provision of Video Jukebox "type" programming to small communities. As Peter outlined to you in Washington, if Video Jukebox Network provides service by satellite, the playlist must be reduced from 350 to 150 titles and there can be no customization of the programming for local communities. Apparently, in order to have localized Video Jukebox Network service, as presently provided, you have to have a critical mass of no less than 30,000 people.

Unfortunately, in light of the existing FCC rate regulations and in light of the uncertainty as to whether they would succeed on their Petition for Reconsideration and the timing of such relief, the Board of Directors determined that it was incumbent to accelerate the satellite plans in order to protect the Company.

When I asked Peter Flint why Video Jukebox Network's imminent launch of satellite delivery was not mentioned at our meeting, he

No. of Copies rec'd  
List ABCDE

0/1

John Hollar, Esquire  
August 16, 1993  
Page Two

---

told me that Video Jukebox Network's satellite service was originally intended to be a separate and secondary programming format, not as a substitute for Video Jukebox Network's local interactive service. It's unknown whether the satellite service has a long term future since without the ability to present customized programming to larger communities there will be less and less distinction between THE BOX's programming and the programming offered by other music video providers such as MTV. This takes away THE BOX's unique competitive advantages. However, the internal issue was the Company's survival, not the survival of the interactive local service. Thus, from Video Jukebox Network's prospective, these are two different programming services.

In the event the Commission does provide the requested relief, Video Jukebox intends to continue to offer its primary service, THE BOX, on a localized basis for larger communities which will allow for the greater playlist and the local customization.

I apologize for any confusion that may have been created, but given the potential fatal impact of the existing rate regulation methodology, apparently Video Jukebox Network deemed it necessary to take the drastic action of providing programming on satellite to protect itself in the event relief from the rate regulation rules was not forthcoming on a timely manner.

Sincerely yours,



Matthew L. Leibowitz

MLL/mdr

cc: William Caton, Acting Secretary  
for Docket File

EX PARTE OR LATE FILED

LEIBOWITZ & SPENCER

A PARTNERSHIP OF PROFESSIONAL CORPORATIONS

MATTHEW L. LEIBOWITZ, P.A.  
JOHN M. SPENCER, P.C.  
JOSEPH A. BELISLE

OF COUNSEL  
SANFORD L. BOHRER

\* NOT ADMITTED TO  
FLORIDA BAR

SUITE 1450  
SUNBANK INTERNATIONAL CENTER  
ONE SOUTHEAST THIRD AVENUE  
MIAMI, FLORIDA 33131-1715

TELEPHONE (305) 530-1322  
TELECOPIER (305) 530-9417

SUITE 500  
1000 CONNECTICUT AVENUE, N.W.  
WASHINGTON, D.C. 20036

Via Telecopier

MEMORANDUM

RECEIVED

TO: Roy Stewart, Chief, Mass Media Bureau  
Bruce Romano, Esq.  
Sandy Wilson, Esq.  
Maureen O'Connell, Esq.  
Jim Coltharp, Esq.

AUG 17 1993  
FCC MAIL ROOM

FROM: Matthew L. Leibowitz *ML*

DATE: August 16, 1993

RE: Ex Parte Presentation  
Video Jukebox Network, Inc.  
MM Docket 92-266

Last week Video Jukebox Network, Inc. ran an advertisement in Cable World announcing the start-up of a new "satellite delivery signal" for THE BOX. This was brought to my attention by John Hollar. Attached please find a follow up letter to John discussing this new programming service. This new service does not diminish the need for the requested relief to allow Video Jukebox Network, Inc. to continue to provide its local interactive service.

If you have any questions please call me. Thank you for taking the time to meet with us and discuss the problem.

cc: Peter Flint, Video Jukebox Network, Inc.  
Joel Rudich, Coaxial Communications

# LEIBOWITZ & SPENCER

A PARTNERSHIP OF PROFESSIONAL CORPORATIONS

MATTHEW L. LEIBOWITZ, P.A.  
JOHN M. SPENCER, P.C.  
JOSEPH A. BELISLE

OF COUNSEL  
SANFORD L. BOHRER

\*NOT ADMITTED TO  
FLORIDA BAR

SUITE 1450  
SUNBANK INTERNATIONAL CENTER  
ONE SOUTHEAST THIRD AVENUE  
MIAMI, FLORIDA 33131-1715

TELEPHONE (305) 530-1322  
TELECOPIER (305) 530-9417

SUITE 500  
1000 CONNECTICUT AVENUE, N.W.  
WASHINGTON, D.C. 20036

August 16, 1993

Via Telecopier

John Hollar, Esquire  
Office of Commissioner Ervin S. Duggan  
Federal Communications Commission  
1919 M Street, NW  
Washington, DC 20554

Re: Ex Parte Presentation  
Video Jukebox Network, Inc.  
MM Docket 92-266

RECEIVED  
AUG 17 1993  
FCC MAIL ROOM

Dear John:

Upon receipt of your fax and the attached advertisement, I put a call in to Peter Flint to inquire as to Video Jukebox Network's plans to provide satellite service as outlined in the advertisement.

Peter informed me that Video Jukebox Network had previously discussed plans to institute satellite service for the provision of Video Jukebox "type" programming to small communities. As Peter outlined to you in Washington, if Video Jukebox Network provides service by satellite, the playlist must be reduced from 350 to 150 titles and there can be no customization of the programming for local communities. Apparently, in order to have localized Video Jukebox Network service, as presently provided, you have to have a critical mass of no less than 30,000 people.

Unfortunately, in light of the existing FCC rate regulations and in light of the uncertainty as to whether they would succeed on their Petition for Reconsideration and the timing of such relief, the Board of Directors determined that it was incumbent to accelerate the satellite plans in order to protect the Company.

When I asked Peter Flint why Video Jukebox Network's imminent launch of satellite delivery was not mentioned at our meeting, he

John Hollar, Esquire  
August 16, 1993  
Page Two

---

told me that Video Jukebox Network's satellite service was originally intended to be a separate and secondary programming format, not as a substitute for Video Jukebox Network's local interactive service. It's unknown whether the satellite service has a long term future since without the ability to present customized programming to larger communities there will be less and less distinction between THE BOX's programming and the programming offered by other music video providers such as MTV. This takes away THE BOX's unique competitive advantages. However, the internal issue was the Company's survival, not the survival of the interactive local service. Thus, from Video Jukebox Network's prospective, these are two different programming services.

In the event the Commission does provide the requested relief, Video Jukebox intends to continue to offer its primary service, THE BOX, on a localized basis for larger communities which will allow for the greater playlist and the local customization.

I apologize for any confusion that may have been created, but given the potential fatal impact of the existing rate regulation methodology, apparently Video Jukebox Network deemed it necessary to take the drastic action of providing programming on satellite to protect itself in the event relief from the rate regulation rules was not forthcoming on a timely manner.

Sincerely yours,



Matthew L. Leibowitz

MLL/mdr

cc: William Caton, Acting Secretary  
for Docket File

*Regulate*

**FAX TRANSMISSION SHEET  
OFFICE OF COMMISSIONER ERVIN S. DUGGAN  
FEDERAL COMMUNICATIONS COMMISSION**

**DATE: AUGUST 13, 1993**

**TO: MATT LEIBOWITZ**

**ORGANIZATION: LEIBOWITZ & SPENCER**

**FAX: (305) 530-9417**

**FROM: JOHN HOLLAR**

**Phone: 202/632-6996**

**Fax: 202/632-5171**

**Pages: Cover sheet is page 1 of 2**

**Matt: Thought you might find of interest this full-page ad in Monday's edition of Cable World. I don't recall Peter Flint mentioning this in our meetings earlier this week. --- JCH**

**MEMORANDUM**

TO: Cable System Operators

FROM: Peter A. Flint

DATE: August 9, 1993

RE: **THE BOX ON SATELLITE**



On Monday, August 30, 1993 at 12:00 Noon E.D.T., the planet's only 24-hour interactive, all music channel will become available on Satcom C-4, Transponder 11.

Now, for the first time, satellite delivery makes it possible for all cable systems to offer their subscribers **THE BOX**... the all-viewer programmed music channel.

Please do not finalize any channel line-up changes until you consider the following:

- As a "satellite-delivered signal", **THE BOX** qualifies as part of your systems benchmark calculation.
- There is no license fee.

Please contact me at (215) 989-0110 to discuss this in greater detail.

cc:	CYPRESS HILL	WHITNEY HOUSTON	PRIMUS
	DR. DRE	JANET JACKSON	PRINCE
	GLORIA ESTEFAN	MADONNA	SADE
	4 NON-BLONDES	ONYX	U2